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IN THE DISTRICT COURT
OF NEW SOUTH WALES

THE CHIEF JUDGE
THE HONOURABLE JUSTICE PRICE AM
AND THE JUDGES OF THE COURT

TUESDAY 17 FEBRUARY 2015

**SWEARING IN OF HIS HONOUR JUDGE ANDREW SCOTTING AS A
JUDGE OF THE DISTRICT COURT OF NEW SOUTH WALES AND
MEMBER OF THE DUST DISEASES TRIBUNAL**

Ms J Needham SC, President, Bar Association of New South Wales on behalf
of the New South Wales Bar

Mr John Eades, President, Law Society of New South Wales, on behalf of
solicitors

JUDGE SCOTTING: Chief Judge I have the honour of announcing that I have
been appointed as a judge of the District Court and as a member of the Dust
Diseases Tribunal. I present my commissions.

(Commission read)

(Oaths of office taken)

PRICE J CJDC: Judge Scotting on behalf of the judges of this Court I very
warmly welcome you and I wish you every success in your judicial career.

NEEDHAM: May it please the Court. I am honoured to speak on behalf of the
Attorney General of New South Wales and the New South Wales Bar
Association to welcome your Honour as a judge of the District Court of New
South Wales and the Dust Diseases Tribunal. The Attorney has made an
excellent choice in elevating a good lawyer and a good person to this
important role. May I congratulate the Chief Judge on the quality of his newest
judicial officer.

I would also like to acknowledge the traditional custodians of the land on

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which we meet today, the Gadigal people of the Eora nation and pay my respects to their elders, both past and present.

Your Honour was born in Bankstown and was educated at St Gregory's College, Campbelltown and John Therry Catholic High School Rosemeadow. You attended the University of Sydney and obtained a Bachelor of Arts majoring in economics and law. As we will hear from Mr Eades, I am sure, you worked full time as a legal clerk at Marsdens Solicitors in Ingleburn before commencing your Bachelor of Laws at the University of New South Wales. You were admitted as a solicitor of the Supreme Court in February 1992.

After a brief time doing personal injury and commercial litigation for Marsdens in their Campbelltown office, your Honour started a lifelong pattern of moving in an easterly direction, first to the firm of Baker Ryrie Rickards Titmarsh in Parramatta in January 1993 and was then called to the bar in September 1996. You read with Anthony Black and Colin Hazelwood and took a room on the 8th Floor Garfield Barwick Chambers.

By 2003 your Honour inched half a block further east and a little to the south to the 13th Floor of St James Hall Chambers where you remained until this appointment was announced. I have to admit that your appointment was met by our mutual floor colleagues with mixed emotions. High amongst them was dismay at the loss of our most convivial and socially astute floor member. It was not unusual to peak into your Honour's room which was next to mine and see ten or so cases of interesting wine piled up. Your Honour was, in effect, a social committee composed of only one, but one very active and devoted member. I recall a number of Christmas lunches where inexplicably after lunch had finished and most members had returned to chambers there remained about \$1500 on the minimum spend at the restaurant we were

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lunching at and your Honour and a couple of other members of the floor were very dedicated to sorting that out.

Once we got over the shock of having to order our own wine in the future, the joy I have to say was unconfined. Your Honour is remarkably well suited for a role on the District Court with its broad practice areas. Your practice was very diverse encompassing succession, common law, commercial, equity, professional negligence, administrative and criminal law. You have appeared frequently in the Supreme Court, the Court of Appeal and of course The Dust Diseases Tribunal where your Honour is now destined.

A brief search of Austlii reveals many notable cases amongst them being *Kelly v Jowett* a Court of Appeal decision on personal costs orders and *Northern Residential Pty Ltd v Newcastle City Council* another success in the Court of Appeal relating to provisions of the Environmental Planning and Assessment Act, demonstrating your Honour's range. One case which kept the 13th Floor enthralled was *Hickin v Carroll (no 2)* which arose out of a will in which the bequests to the children of the deceased were dependent upon their attendance at his funeral, which they complied with, and conversion to Catholicism within three months of his death, they were Jehovah's Witnesses and they did not. Your Honour was a persuasive advocate for the validity of testamentary restraints on the freedom of religion of a beneficiary and succeeded in persuading Justice Kunc of the Supreme Court that the gifts to the children should fail.

On a somewhat different note, you and I were briefed together by the irrepressible Ms Katelin Turner to represent the estate of the late Abe Saffron. Your Honour did most of the work and I turned up from time to time. Sadly the dispute was settled at mediation but not after you and I watched an episode of

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Gordon Ramsay's Kitchen Nightmares on YouTube and read a book entitled "Gentle Satan; My Father Abe Saffron", all in the name of justice.

Your Honour has contributed to the life of the Bar by your service on the Bar Association's Health and Wellbeing Committee and on Professional Conduct Committee No 1. Your Honour also shared your time with a number of readers, some of whom are here today. One of them, Simon Chapple, speaks highly of your generosity of time. These are important and time consuming duties and I thank you for your time and dedication.

However, your chief contribution as a member of the Association is your Honour's pivotal achievements on the Bar Hockey Team, whether that be on the field, as an organiser or as an occasional correspondent for the sports pages of Bar News. I'm sure your Honour was also on the front foot when it came to hockey social functions but nobody's talking. Your Honour also has served as a member of the Sydney Hockey Association Judiciary Panel and the New South Wales Hockey Association Member Protection Tribunal. Articles in Bar News are replete with references to the "solid midfield combination of Larkin and Scotting" or better still "the impenetrable defence of Scotting". Not all of those glowing reports of your performance were written by you.

Sadly despite your Honour's redoubtable performances, the team suffered a long losing streak to its arch nemesis, the Victorian Bar. At one point, circa 2005, it would appear that the Victorians were lacking respect for New South Wales whom they described, perhaps harshly, as too old, too fat and too slow. Following an especially heavy loss at the hands of a rampant Victorian side in which a non-Bar member of the New South Wales team was loaned to the Southern Devils, your Honour took the unprecedented step of

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publishing a mea culpa in the Autumn 2013 edition of Bar News. With the Court's permission I will read from your Honour's prepared statement.

"I have let myself, my team, my family, Shagger Meares and Bunter Johnson down by my actions. The decision to let a skilful, agile and youthful Irishman play for the Victorians was a decision I alone made. I hope that in the future the fans of the New South Wales Bar Hockey Team can forgive this indiscretion. I would ask the media to respect my privacy whilst I undergo extensive counselling".

I would be remiss were I not to include a mention of your Honour's wife, Liz Cheeseman SC and your children who are, indeed, too many to name who are here today. I know that they will have forgiven your indiscretion as soon as it happened and provided any counselling necessary at the time. You are a true family man and I know that they will be very proud of you today as they are every day.

Judge Scotting the Bar applauds your appointment, even while your friends including those on the 13th Floor of St James' Hall will miss you. On behalf of the Bar may I wish you an enjoyable and fulfilling career on this excellent Court.

EADES: The late John Marsden was often quoted as saying "There are two great cities in the world, Rome and Campbelltown. You grew up in the latter part thereof and your first experience was working with John Marsden, that would have been a most interesting experience because at that time in 1992 John was also the President of the Law Society of New South Wales. Since then you had a varied at my side of the table and entered the Bar as your learned leader has told us. The solicitors of New South Wales sincerely congratulate you on your appointment.

I also welcome your parents, Alf and Carole, your partner in crime who has adopted a rather feminist approach of not changing her surname, your

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children whom I shall name, Olivia, Lucinda, Sirena, Alex, Serafina and your extended family members. I am sure your late sister, Amanda, would be extremely proud to be here today and you are thrilled to have her children, Reece and Sheri here.

We are not sure what steered you towards the law. Your mother was a pharmacist, your father a draftsman but the profession is pleased you did choose the law. Whilst my leader has spoken of your university career, she omitted to say that you undertook postgraduate studies in forensic psychiatry, obviously to deal with the solicitors who brief you.

Your dedication around your home is well known and I have yet to understand how you can have a hammock encased in concrete which adorns your backyard. There are the other devoted attention you give to your other girls. I and others were confused about who you were referring to. Your daughters? No. But when you spoke about their failure to deliver eggs the penny dropped, thank goodness Ralphie, your King Charles Cavalier is a male. Very few would understand frivolity like that and I am pleased I was able to find that out. A man with a diverse interest is always wonderful, it will stop you going mad on the bench.

Your paternal grandfather was responsible for instigating your love of fishing particularly at Lizard Island but now you're confined to Narrabeen Lakes and Pittwater. You are reputed to have the makings of a master chef. At your wedding your best man said you made the most exquisite cocktails and gougere, another expression your family members said were cheese puffs, perhaps a little bit more upmarket. You were noted for drinking top quality French champagne especially when working around the house.

Your Honour has refereed for you daughter Serena's school. While you

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were often sporting taped knees on the hockey field you were remiss in not advising her as to the perils of standing on the head of a hockey stick which resulted in a black eye. You are a spectator of sports including rugby and AFL. Given the Swans grand loss against Hawthorn you were hoping in their pre-season training will auger far better particularly against Essendon on Easter Saturday.

My leader has spoken of you being missed on your floor. There were clearly mixed emotions, elation and joy for you and then it finally dawned on them there's going to be more work for them on the floor for which they are grateful. Your Honour is facing a very long minimal non-parole period and circuit dinners, and I have been to many, may prove disappointing to your exquisite taste, however you will no doubt acquit yourself well and be a wonderful addition to the bench. The solicitors of New South Wales, sir, wish you every success.

JUDGE SCOTTING: Chief Judge, Mr Attorney, ladies and gentlemen. Firstly thank you Mr Attorney for honouring me with your presence today and for the courtesy of allowing one of my dear friends, Ms Needham, to speak on behalf of the Bar. Ms Needham and Mr Eades, thank you very much for your kind words.

I was concerned late last week that although I had never met Mr Eades that he may know me too well. The usual request came through from the Law Society for information about me and my clerk sensibly referred that request to my wife Liz. Unfortunately Liz was in a hearing and time was short so I suggested that the Law Society try my sister in-law, Vanessa. On Friday afternoon I drove home while Liz was on the telephone to Vanessa to enquire about how the chat with the Law Society went. All I can say is that Liz laughed

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hysterically from the city all the way home and I did not hear any of the sordid details. The telephone call ended with Liz saying "Don't worry Ness I will fix it". Mr Eades I was worried for you that the good material may have got away from you but after hearing you speak I see that it did not.

I would like to thank all of you for taking the time out of your busy schedules to be here today and I would particularly like to thank my family members who have travelled from Queensland, country New South Wales and of course the Northern Beaches. It's hard to believe that the whirlwind of the last few weeks has culminated in today. I cannot describe the euphoria that comes with sending back every brief in chambers within a 48 hour period. To the barristers here today, if you've got any guts I'd highly recommend the experience.

It also seems strange that the start of one's judicial career begins with what I'm sure I will one day adjudicate as misleading and deceptive conduct, at least by silence. It was a great relief on Wednesday afternoon when I was telephoned by the Attorney's office to tell me that the media release had issued. In fact the website did not update for many hours, however as luck would have it, the first person that Liz told was Wendy Strathdee and the Dust Diseases community were well informed, very quickly.

I have had a wonderful time at the Bar. I have loved helping people were they clients or solicitors to deal with the problems that they have faced. I would like to thank all of the solicitors that have briefed me, whilst I was at the Bar in particular for their support and hard work. So many of you have become good friends, it would be remiss of me to name just a few. I would like to thank Erin Devery for her inspired decision to give me my first brief in the Tribunal. I would also like to thank John Young, my first ever client as a

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solicitor, for being here today.

I have loved the camaraderie at the Bar and the people in it.

I first came to the Bar on 8th Floor Garfield Barwick Chambers where I read with Colin Hazelwood and Anthony Black. The members of that floor and the clerk Sarojini Ramsay were supportive during my early years. I was very fortunate indeed to meet Chris Birch SC who has become a mentor for me throughout my time at the Bar. Chris gave selflessly of his time to help me whenever I asked him to and we took on many causes together to great effect.

In about 2002 I bought a room on 13th Floor St James Hall Chambers when Liz was being led by Terry Tobin QC. That proved to be an inspired decision. My colleagues on the 13th Floor are second to none and I will miss seeing them all every day. I have thrived on the personal and professional support provided by people like Debbie Taylor, Peter Taylor, Jane Needham, Jeremy Morris, Gordon McGrath, Howard Packer, Bede Kelleher and Francois Salama. I would like to thank Terry Tobin QC for his inspired leadership of the floor, his wise counsel and his good company.

I would also like to thank Yvette Gimellaro, Siobhan Mansfield, Annabelle Butler, Julieanne Reid, Emma Cupitt and Emma Murrell who have all served as the clerk of chambers during my time on the floor. I would also like to thank Mr Ali Taha for his dedicated service, loyalty and friendship.

I have been also fortunate to have close contact with Liz's floor members at our time during the Bar. We had many dear friends at the Bar for whom we are grateful.

I've been fortunate to be part of the Legal Eagles Hockey Team since about 1997. The Eagles are part of a team that plays for Gordon North Sydney in a weekend Sydney competition that has had at least one barrister or

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a judge play in it since about 1958. The Eagles have been a great introduction to the past and present members of the Bar and its traditions and are the source of many enduring friendships.

I have been very lucky to work with a number of excellent senior counsel and I thank them for imparting their wisdom and sharing their skills with me. I have also had the privilege of working with many excellent junior counsel and I would like to thank them for their contribution in the various cases that we have collaborated on. In particular I would like to acknowledge the efforts of my good friend Simon Chapple who was my last reader. He has become an integral part of the 13th floor and is the anointed successor to much of my practice. I've always had one lasting doubt about Simon until last Thursday when I put on this wig for the first time, finally I can say that I understand about the curly hair.

I want to thank the Bar in particular for the overwhelming response to my appointment in notes, cards and emails. Some of the comments have been truly inspired but I do think that a few things need to be clarified. First, my move to public accommodation will not free up funds for the further pimping of Liz's chambers. Second, I am not sure that "Killing in the name" by Rage Against the Machine is an anthem to judicial independence. Third, by accepting an appointment I am not trying to increase my profile in the Court of Appeal.

I would like to thank the Chief Judge, the members of the Tribunal and the Court staff for their warm welcome. I have many friends here including Judge Andrew Colefax and I look forward to spending time with them. I would like to acknowledge the outstanding contribution of Judge Finnane to the Court and the Tribunal and I wish him well for his return to the Bar, even if he is

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returning to the wrong 13th floor.

I want to thank my parents for their hard work, sacrifice and encouragement that got me through high school and university. They gave me a set of values that qualify me more for this role than anything they could teach you at law school. They have been a never-ending source of love and support throughout the most difficult personal times and the most difficult cases. It means so much to me that they are here today and that they are so proud of me.

I am deeply saddened by the fact that my sister Amanda did not live to see today. I would like to thank my nephew, Reece and my niece, Sheri, for being here. My sister had a wickedly irreverent sense of humour and she would have loved to be here today to have a laugh at my expense.

If I had a major influence in my life it was my grandfather Walter Henry Crossie. Family meant everything to him and he loved to have us gather every Christmas at his home in the Gold Coast. He was a successful businessman and he encouraged me to study and taught me how to treat people with respect. He lives on for me every day in my son, Alexander Walter Henry Scotting. I thank members of my extended family for sharing this special occasion with me as we once always did with Pop.

I would like to welcome the Cheesman's here today and thank them for all of their support they have provided to Liz and myself and the children. We often require massive logistical support and it is always provided with love and understanding.

I would like to pause at this point to thank my wife for her considerable assistance with the preparation of my remarks today. For my part I was grateful for her assistance because she has a way with words. For her part

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she would know what I was going to say in advance in order to save her any embarrassment and to prevent tears on a biblical scale. However, whilst I have listened intently to the careful and cogent submissions of learned senior counsel I'm afraid that I cannot accept them on this one particular occasion. Accordingly in my first public display of judicial independence I have chosen to redraft this part of my remarks about my wife without prior notice to her.

The phrase "approach cooking and love with reckless abandon" is attributed to the current Dalai Lama. I'm not sure how the Dalai Lama goes with the ladies but I can tell you from a personal experience he is on to a winning formula. I met my wife Liz in the Bar course in August 1996 and after a few years our romance blossomed. I can tell you, however, that it was my cooking that sealed the deal and it is my hold over her in the future. Liz has taught me the true meaning of the words, love, joy, kindness, family, passion and generosity. We have become a formidable partnership in love, life and the law and today is as much about her as it is about me. In her own right, though, Liz is a brilliant lawyer and a role model to women at the Bar but most importantly, to me, she is an extraordinary wife and mother and it's always in those roles I will be most proud of her.

And finally to my children, Olivia, Lucy, Sirena, Alex and Serafina, I want to say that I am so proud of each and every one of you and I love you all so very much. I want you to look back on today and remember it is the symbol of the rewards that will come in your lives if you work hard and treat people with respect.